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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Numbering Resource Optimization

CC Docket No. 99-200

BELLSOUTH CORPORATION
PETITION FOR RECONSIDERATION AND CLARIFICATION

BELLSOUTH CORPORATION

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EXECUTIVE SUMMARY

On March 17, 2000, the Commission achieved a major milestone when it adopted national rules and policies to promote the efficient use of numbering resources in its *Numbering Resource Optimization Order* (“*NRO Order*”). In that order, the Commission, among other things, established reporting requirements for all carriers, adopted a utilization threshold framework for non-pooling carriers, and mandated the implementation of thousands-block number pooling at the national level. In order to implement the Commission’s new rules in the most effective manner, BellSouth respectfully requests that the Commission reconsider and clarify certain aspects of the *NRO Order*.

Mandatory Reporting Requirements. BellSouth urges the Commission to either modify or clarify a number of its new reporting requirements in order to minimize inconsistencies among carriers in future reporting, better reflect actual number usage, and allow timely and adequate access to numbering resources. Specifically, BellSouth requests the following actions:

- The Commission should reconsider requiring carriers that provide intermediate numbers to non-carriers to report utilization and forecast data to the NANPA on behalf of these non-carrier entities.
- If the Commission continues to require carriers to report data for non-carriers, the Commission should clarify the meaning of the term “non-carrier entity.”
- The Commission should increase the time period that a carrier may hold numbers in reserve status beyond 45 days.
- The Commission should modify the formula for calculating utilization to include assigned, intermediate, reserved, aging, and administrative numbers in the numerator.

Utilization Threshold Requirement for Non-Pooling Carriers. The Commission should reconsider its decision to adopt a utilization threshold requirement for non-pooling carriers. The enhanced enforcement authority granted to the North American Numbering Plan (“NANPA”),

the semi-annual reporting requirement, the streamlined reclamation process, the upcoming audits, and the new Month-To-Exhaust (“MTE”) procedures significantly reduce the need for a utilization threshold. Thus, instead of adopting a strict utilization threshold, the Commission should rely on MTE. MTE is a more effective method to assess a carrier’s need for numbering resources because, unlike utilization data, it reflects future demand.

If the Commission nonetheless proceeds with the adoption of a utilization requirement for non-pooling carriers, it should allow a carrier to calculate utilization on a per-switch basis if the carrier operates multiple switches in a rate center. Restricting the calculation of utilization to the rate center level, regardless of whether a carrier operates multiple switches in a rate center, is inappropriate and could deprive carriers of access to numbering resources.

NPA Eligibility for Pooling. The Commission should clarify that the life expectancy of the NPA for which pooling authority is sought must be based on the “true” life of the NPA – not the artificial life obtained by rationing. This distinction is extremely important. If number pooling is to have any real value, it needs to be implemented earlier in the life of an NPA, not at a point near or at actual exhaust.

Compliance with the National Pooling Rollout Schedule. To ensure that neither the NANPA nor carriers are overburdened by multiple state pooling efforts, the Commission should require strict compliance with the established rollout schedule (no more than three NPAs per NPAC region per quarter). If the states are unable to coordinate among themselves when conflicts arise, the Commission must be willing to step in and assume the role of final arbiter.

Meaning of “Applicable Activation Deadline.” BellSouth requests that the Commission clarify the meaning of the phrase “applicable activation deadline” in the new reclamation rules. The Commission should define this deadline as the date that the NXX code has been activated in

the LERG. Based on this interpretation, service providers would have 60 days after the date the NXX code has been activated in the LERG to initiate service to a customer.

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BELLSOUTH
PETITION FOR RECONSIDERATION AND CLARIFICATION

BellSouth Corporation, by counsel and on behalf of itself and its affiliated companies (“BellSouth”),¹ respectfully submits this Petition for Reconsideration and Clarification of certain aspects of the order adopted in the above-captioned proceeding.²

I. THE COMMISSION SHOULD RECONSIDER OR CLARIFY SEVERAL ASPECTS OF ITS NEW REPORTING REQUIREMENTS.

The *Numbering Resource Optimization Order* (“*NRO Order*”) requires all carriers that receive numbering resources to report forecast and utilization data to the North American Numbering Plan Administrator (“*NANPA*”)³ using the five categories of numbers codified by

¹ BellSouth Corporation is a publicly traded Georgia corporation that holds the stock of companies that offer local telephone service, provide advertising and publishing services, market and maintain stand-alone and fully integrated communications systems, and provide mobile communications and other network services world-wide.

² *Numbering Resource Optimization*, CC Docket No. 99-200, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 00-104 (rel. Mar. 31, 2000) (“*NRO Order*” and “*FNPRM*”).

³ *NRO Order*, ¶ 40; to be codified at 47 C.F.R. § 52.15(f).

the Commission (assigned, intermediate, reserved, aging, and administrative).⁴ Each carrier must file its first report no later than August 1, 2000 for the six-month period ending June 30, 2000.⁵

BellSouth urges the Commission to either modify or clarify a number of its new reporting requirements. In the absence of such Commission action, carriers will inevitably use different assumptions to satisfy the new requirements as best they can. Indeed, BellSouth suspects that the reports submitted to meet the August 1, 2000 reporting deadline will not be uniform because a number of the new rules are unclear. In order to minimize inconsistencies among carriers in future reporting, better reflect actual number usage, and allow timely and adequate access to numbering resources, the Commission should take the actions requested herein.

A. The Commission Should Reconsider Requiring Carriers That Assign Intermediate Numbers To Non-Carrier Entities To Report Utilization And Forecast Data On Behalf Of These Non-Carrier Entities

The *NRO Order* requires carriers that provide intermediate numbers to non-carriers to report utilization and forecast data to the NANPA for these numbers.⁶ The carrier making such numbers available for assignment by a non-carrier entity is required to categorize these numbers as “intermediate” only until they are assigned to an end user or customer by the non-carrier entity.⁷

⁴ *NRO Order*, ¶ 60; to be codified at 47 C.F.R. § 52.15(f)(1).

⁵ *NRO Order*, ¶ 67.

⁶ *Id.*, ¶ 40.

⁷ *Id.*, ¶ 21.

BellSouth urges the Commission to reconsider requiring carriers providing intermediate numbers to non-carrier entities to report to the NANPA on behalf of these non-carriers. Currently, BellSouth has no way of obtaining utilization and forecast data from non-carrier entities. Further, it would be unnecessarily burdensome and, in most cases, virtually impossible for carriers to keep track of each individual number assignment made by a non-carrier. Perhaps even more importantly, non-carriers may not wish to provide utilization and forecast data for competitive reasons. Nor should they be required to do so. BellSouth therefore urges the Commission to require non-carrier entities to report their own utilization.⁸ Both carriers and non-carriers use public numbering resources; therefore, both should be required to report their own utilization and forecast information.

Under BellSouth's proposal, the carrier assigning the intermediate numbers to another carrier or a non-carrier entity would count them as intermediate without having to later reclassify them once they are assigned. The carrier or non-carrier entity receiving the intermediate numbers would be responsible for reporting these numbers as assigned or available. The Commission should adopt this approach because it not only provides a more accurate and timely view of actual number usage but also identifies and holds accountable the entity both responsible for using the numbers and privy to its own usage information.

⁸ The Commission can rely on its ancillary jurisdiction to require non-carriers to comply with the mandatory reporting obligations. As the Commission has recognized, "[i]n defining the scope of [its] ancillary jurisdiction, courts have emphasized the broad nature of [the Commission's] statutory mandate and the need to provide the Commission with sufficiently elastic powers to readily accommodate new developments in the field of communications." *Regulatory Policies and International Telecommunications*, 2 FCC Rcd 1022, 1046 n.110 (1987). The Commission has used ancillary jurisdiction as a basis for extending the Section 255 accessibility requirements to the providers of voicemail and interactive menu services and equipment manufacturers. *Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996*, WT Docket No. 96-198, *Report and Order ad Further Notice of Inquiry*, FCC 99-181, ¶¶ 93-108 (rel. Sept. 29, 1999).

B. If the Commission Continues To Require Carriers To Report Utilization And Forecast Data For Non-Carrier Entities, It Must Clarify The Meaning Of The Term “Non-Carrier Entity.”

As discussed above, the new rules require a carrier providing intermediate numbers to a non-carrier entity to categorize these numbers as “intermediate” only until they are assigned to an end user or customer by that non-carrier entity.⁹ The Commission gives two examples of “non-carrier entities” – retail dealers and unified messaging service providers.¹⁰ Although these examples provide some guidance, BellSouth believes that an explicit definition of “non-carrier entity” is necessary to avoid any uncertainty as well as to identify the entity responsible for submitting utilization and forecast data to the NANPA.

This distinction is important because, as described above, the Commission has established different reporting requirements for carriers and “non-carriers” receiving intermediate numbers. Therefore, if the Commission retains its rule requiring carriers to submit reporting data for non-carriers, it should define the term “non-carrier entity.”

To that end, the Commission should not adopt GTE’s proposal to define a “non-carrier entity” as any non-facilities based entity.¹¹ This proposed definition is too broad and could cause confusion. For example, although some Type 1 wireless providers and paging providers do not have facilities, they are considered “carriers” subject to Commission regulation. Therefore, these non-facilities based carriers should be responsible for submitting their own utilization and

⁹ *NRO Order*, ¶ 21.

¹⁰ *NRO Order*, ¶ 20.

¹¹ *GTE Ex Parte*, Letter from May Y. Chan, Director – Regulatory Affairs, GTE to Magalie Roman Salas, Secretary, FCC, at 2 (dated June 13, 2000).

forecast data in accordance with the Commission's rules. Under GTE's proposed definition, however, the reporting obligations of these carriers might be unclear.

GTE's recommended definition could lead to further unintended results. For example, a Private Branch Exchange ("PBX") or Direct Inward Dialing ("DID") customer arguably could qualify as a non-carrier entity under GTE's overly broad proposal thereby triggering the reporting obligation for the assigning carrier. Although it is obvious that the Commission did not intend to include PBX or DID customers as "non-carrier" entities, such an interpretation would be possible under GTE's proposal. This situation would be an administrative nightmare for carriers such as BellSouth who, for example, have thousands of PBX customers. It would be impossible for BellSouth to track the numbers held by its thousands of PBX customers. The examples above demonstrate the flaws with GTE's proposal and the corresponding need for the Commission to explicitly define "non-carrier" entity.

C. The Commission Should Increase The Time Period That A Carrier May Hold Numbers In Reserve Status

Reserved numbers are defined as "numbers that are held by service providers at the request of specific end user customers for their future use."¹² The maximum time period during which a number may be held in reserved status is 45 days, with no extension permitted.¹³ After the expiration of the 45-day reservation period, the number must be re-categorized as "available" for assignment.

¹² To be codified at 47 C.F.R. § 52.15(f)(1)(vi).

¹³ *NRO Order*, ¶¶ 23-24; to be codified at 47 C.F.R. § 52.15(f)(1)(vi).

While this 45-day limit may be sufficient for some residential customers, it is wholly impractical for businesses and other large-volume users. As evidenced by substantial end-user response, the 45-day limit will be extremely disruptive and will result in substantial harm, especially to large-volume subscribers.¹⁴ Various state and local governments, businesses, and organizations have explained in detail how this restrictive time interval will harm them. For example,

(1) The State of Illinois, Department of Central Management Services explains:

We view that the Order, in its present form, will greatly harm our ability to cost-effectively deliver services to our 150,000 line constituency. We see our situation as common across the nation for any equivalent class of large business or government customers.

....

Loss of the ability to install additional "lines" in a pre-defined number range will severely hamper, if not prevent, our ability to further deploy service offerings using ISDN for switched video services.

....

Further, we see that our ability to deliver service in a timely manner will be seriously diminished. . . . We see the 45 day . . . rule[] . . . as being inappropriate for our applications. . . . Large projects with hundreds of phones will always take more than the 45 days allowed under your number "Reservation".¹⁵

(2) The University of Texas MD Anderson Cancer Center states:

. . . A 45-day maximum would be detrimental to our ability to plan and implement communications, both in the short and long term

...

¹⁴ On July 10, 2000, BellSouth submitted an emergency petition requesting that the Commission immediately stay the effective date of the 45-day reservation requirement. *See BellSouth Corporation Emergency Petition for Partial Stay*, CC Docket No. 99-200 (filed July 10, 2000).

¹⁵ Letter from State of Illinois, Department of Central Management Services, to FCC, CC Docket No. 99-200 (no date).

Without flexibility to reserve numbers, a logical numbering plan will be replaced with an incoherent and illogical numbering scheme that will be difficult to manage and confusing to our customers.

. . . The Numbering Resource Optimization will put an undue hardship on our operation and could affect our ability to serve patients.¹⁶

(3) The State of Indiana, Department of Administration states:

. . . we see that our ability to deliver service in a timely manner will be seriously diminished. . . . We see the 45 day . . . rule[] as being inappropriate for our use. . . . the 45 day rule will seriously impact a major installation that will most likely take longer than 45 days.¹⁷

(4) The Belton School District explains:

Without the ability to reserve telephone numbers over an extended period, we will not be able to have assurance that we have a dialing plan in our phased cutovers.

When we disconnect a Plexar station number, we can not be guaranteed the reuse of that number at a later time because upon disconnect these numbers would be available for other users. As a result, we may not be able to retain our 4 digit dialing plan and may not even be able to retain our NXX.

. . .

If we cannot keep the numbers that were built into our Plexar for future use, my business will suffer a severe negative impact. We will lose our basis for our communications plan under Plexar, cause confusion for our users and our customers or patrons.¹⁸

¹⁶ Letter from Rick Bryant, Executive Manager, Telecommunications, University of Texas MD Anderson Cancer Center, to FCC, CC Docket No. 99-200 (dated May 19, 2000).

¹⁷ Letter from Thomas J. Gedig, State of Indiana, Department of Administration, to FCC, CC Docket No. 99-200 (no date).

¹⁸ Letter from Gary Crabtree, Belton School District #124, Director Finance/Support Services, to FCC, CC Docket No. 99-200 (no date).

(5) The Deputy Chief Information Office of Florida explains:

. . . Florida has 174 Centrex systems with over 170,000 lines that will be significantly impacted if a service provider's ability to reserve a specific NXX is limited to 45 days. As a large volume user providing Centrex services to state agencies, universities, local governments, school districts, and non-profit organizations through multiple service providers, this department relies heavily on being able to maintain a number block concept for the simplification and efficiency of our consolidated support systems. Processes, such as billing, inventory, trouble reporting and resolution, stand to be negatively affected if numbers are no longer reserved by the State for assignment within a logical sequence based on the state Centrex user.

. . . .

. . . In essence, the discontinuation of reserved numbers for government Centrex systems will have a profoundly disruptive effect on state government efficiency and public service.¹⁹

These examples demonstrate the hardships that the Commission's new 45-day reservation period will impose upon customers. To minimize these adverse effects, BellSouth strongly urges the Commission to reconsider the 45-day reservation period. BellSouth believes that the reservation period proposed by the North American Numbering Council ("NANC") Numbering Resource Optimization ("NRO") Working Group – a one-year limit with a one-time extension of six months – is a more reasonable approach.

BellSouth further supports the Commission's directive to the NANC NRO Working Group to develop a recommendation regarding a possible fee structure for telephone number extensions.²⁰ There are bound to be instances in which additional reservations are warranted. No two customers are exactly alike; they come in different sizes and have different needs. The Commission should not foreclose carriers' ability to serve customers by adopting a one-size-fits-

¹⁹ Comments Via E-Mail, Letter from Charles Ghini, Deputy Chief Information Officer, State Technology Office, Florida Department Management Services, to FCC, CC Docket No. 99-200 (dated June 30, 2000).

²⁰ *NRO Order*, ¶25.

all approach. Allowing extensions, when warranted, will provide flexibility without compromising the goal of more efficient number usage.

A lengthier reservation period is absolutely critical for large-volume customers. For example, suppose a large business customer (“ABC Co.”) plans to remodel one its office buildings and, therefore, requests the disconnection of 5000 telephone lines in that building during the six-month renovation. Once the renovation is complete, ABC Co. wants the 5000 lines to be re-activated using the same telephone numbers. Under the Commission’s new rules, ABC Co. might not be able to obtain the same telephone numbers because the 45-day reservation period would have expired long ago and these numbers would be subject to reassignment to other customers. Such an outcome would be completely disruptive to customers such as ABC Co. by hampering future growth opportunities.

Moreover, the 45-day reservation restriction would negatively impact customers with seasonal needs (*e.g.*, seasonal businesses, seasonal homes). Such customers typically disconnect their telephone service year after year with the expectation of being able to use the same number at a later date. Clearly, the 45-day reservation period would eliminate such flexibility for customers.

The 45-day reservation period could also lead to less efficient use of numbering resources – contrary to the Commission’s goal. In order to accommodate the needs of large-volume customers, in the absence of a reasonable reservation period, carriers would have to open up more NXX codes.²¹ This result cannot be what the Commission intended. Therefore, to

²¹ For example, upon expiration of the 45-day reservation period, the numbers previously used by ABC Co. would be reclassified as aging thereby making them unavailable for assignment up to a maximum of 365 days. Thus, new resources/NXXs would have to be opened to accommodate the needs of ABC Co. since its previous numbers would now be included in the

minimize the harm imposed on customers and the risk of inefficient number usage, the Commission should consider adopting the NANC NRO Working Group's proposed reservation period.

If the Commission retains the 45-day reservation period, it should either provide a procedure by which reservations can be grandfathered due to contractual, legal, or technical reasons, or, at a minimum, allow a transition period for the treatment of existing reserved numbers. BellSouth has legally binding agreements in effect as well as services offered under contract or tariff that require the reservation of telephone numbers.²² Many customers have relied on these reservations to develop their telecommunications systems, to establish abbreviated dialing plans, and to consolidate various support systems such as billing and inventory.

The Commission must realize that the imposition of the 45-day reservation period is a dramatic shift away from the traditional method of assigning numbers to many customers. Therefore, time is needed in order to provide proper and timely customer notification, assess the impact of this new requirement, develop potential solutions, and restructure contracts and tariffs as necessary. A flash-cut approach would be severely disruptive to customers and would impose irreparable harm. Thus, if the Commission retains the 45-day reservation period, it should either grandfather those existing reservations made pursuant to binding agreements or in conjunction

aging category and could not be assigned to other customers for some time. This is an extremely inefficient use of numbering resources.

²² For example, Direct Inward Dialing ("DID") is a service offered by BellSouth that relies upon a direct association between a given customer and a specific number range. If this association is broken, provision of this service would no longer be technically feasible.

with existing services that depend upon number reservations (*e.g.*, DID). If the Commission decides not to grandfather current reservations as BellSouth proposes, at a minimum, it should grant a transition period in order to minimize the adverse effects on customers.

D. The Commission Should Modify The Formula For Calculating Utilization To Reflect More Accurately Those Numbers That Are Unavailable For Assignment

The *NRO Order* requires a carrier to calculate its utilization by “dividing all *assigned numbers* (numerator) by total numbering resources assigned to that carrier in the appropriate geographic region (denominator), and multiplying by 100.”²³ There is broad consensus that this formula is flawed because it excludes a large percentage of numbers that are not available for assignment²⁴ thereby resulting in “misleadingly low rates of utilization.”²⁵ Since one of the Commission’s stated goals is to “facilitate the accurate monitoring and tracking of the availability of numbering resources in the NANP,”²⁶ the Commission should ensure that the formula for calculating number usage is as accurate as possible. The Commission can accomplish this objective by including assigned, intermediate, reserved, aging, and administrative numbers in the numerator.

²³ *NRO Order*, ¶ 109 (emphasis included); to be codified at 47 C.F.R. § 52.15(f)(g)(3)(ii).

²⁴ *See, e.g.*, ALTS Comments at 4 (filed May 19, 2000); *see, e.g.*, Bell Atlantic Comments at 7 (filed May 19, 2000); PCIA Comments on at 7-11 (filed May 19, 2000); SBC Comments at 7-8 (filed May 19, 2000); Sprint Comments at 5-6 (May 19, 2000); Time Warner Telecom Comments at 3-5 (filed May 19, 2000).

²⁵ SBC Comments at 7 (filed May 19, 2000).

²⁶ *NRO Order*, ¶ 13.

1. Intermediate Numbers

The utilization formula should include intermediate numbers in the numerator. Once these numbers are assigned to an intermediate entity, they are no longer available for assignment by the initial carrier. The Commission correctly acknowledged this fact when it concluded that “such numbers should not be counted in the code or block holder’s inventory because the code or block holder does not control the provision of these numbers to end users.”²⁷ Since these numbers are beyond the control of the initial carrier, that carrier cannot do anything to “use” intermediate numbers more efficiently. Given this fact, it is appropriate to count these numbers as unavailable by including them in the numerator of the utilization calculation.

It is common business practice to assign large blocks of numbers to high-volume customers (*e.g.*, large businesses, federal, state and local governments, colleges and universities). Once the carrier assigns those numbers to the customer, those numbers are no longer available for assignment from the carrier’s perspective. That customer manages and assigns numbers based on its own needs. As such, the initial carrier is typically unaware of whether a particular number assigned to the intermediate entity is in service or not.

Under the Commission’s rules, the only way that a carrier can count these numbers as assigned is if the carrier can obtain actual usage data from its customers. As demonstrated in Section I.A., this task is easier said than done. Currently, BellSouth has no way of obtaining such detailed information. Even more importantly, other entities may not wish to provide this data because of competitive reasons. BellSouth proposes that the initial assigning carrier be allowed to count the numbers assigned to the intermediate entity as “intermediate” and include

²⁷ *NRO Order*, ¶ 21.

them in the numerator of the utilization formula. The carrier or non-carrier receiving the intermediate numbers should categorize them as assigned or available pursuant to the Commission's definitions. This separate reporting will help minimize the risk of "double counting" among distinct entities thereby helping to ensure the overall accuracy of the reporting data.

2. Reserved Numbers

Reserved numbers are numbers that have been temporarily "assigned" to a designated subscriber and are therefore unavailable for assignment. As with intermediate numbers, carriers cannot control the amount of numbers held in reserve and cannot "use" these numbers more efficiently. Customer demand, not carrier conduct, dictates the level of reserved numbers. Moreover, the Commission's decision to impose a time limit on number reservations (a limit that BellSouth believes should be longer than 45 days) allows for more effective management of numbers. BellSouth therefore recommends that the Commission modify the utilization formula to include reserved numbers in the numerator.

3. Aging Numbers

The only way that a carrier can use aging numbers more efficiently is by reducing the aging interval. A carrier with a low utilization rate but legitimate need for numbering resources may be forced to remove numbers from the aging category much sooner than is recommended. This outcome would result in customer frustration due to the receipt of telephone calls intended for the previous subscriber of that number. *This problem is exacerbated for wireless subscribers due to the industry's high churn rate, which results in a high percentage of aging numbers.* Moreover, prematurely putting aging numbers back in service would lead to higher bills for

wireless subscribers since they must typically pay for all incoming calls – even if the wrong number is dialed. To minimize these harms to the public, the Commission should modify its utilization formula to include aging numbers in the numerator.

4. Administrative Numbers

All carriers require a percentage of administrative numbers “to perform internal administrative or operational functions necessary to maintain reasonable quality of service standards.”²⁸ The Commission acknowledges this fact and identifies several types of administrative numbers, including employee/official numbers, Location Routing Numbers, test numbers, Temporary Local Directory Numbers (“TLDN”), wireless E911 emergency service routing digits/key (“ESRD/ESRK”) numbers,²⁹ and soft dial tone numbers.³⁰ Again, as with the number categories above, the Commission should allow carriers to include administrative numbers in the numerator of the utilization calculation since these numbers cannot be assigned to end users.

The NANPA, the FCC, and state commissions will be able to review a carrier’s data and investigate any suspected cases of abuse. Inclusion of these additional categories in the numerator of the utilization formula will not allow carriers to circumvent the rules. The percentages of numbers in each category will remain readily available for review and audit. Carriers will not be able to “hide” numbers in these other categories, especially with the pending introduction of audit procedures. Moreover, if carriers are found to have violated the

²⁸ *NRO Order*, ¶ 32.

²⁹ *Id.*, ¶ 31.

³⁰ *Id.*, ¶ 33.

Commission's rules, they are subject to penalties, including the denial of access to numbers. Therefore, modification of the utilization formula to include assigned, intermediate, reserved, aging, and administrative numbers in the numerator will not lead to inefficient number usage. To the contrary, this proposed methodology will more accurately represent the numbers that are truly unavailable for assignment.

II. THE COMMISSION SHOULD RECONSIDER IMPOSING A UTILIZATION THRESHOLD REQUIREMENT ON NON-POOLING CARRIERS.

A number of commenters join BellSouth in acknowledging that the Commission need not impose a utilization threshold requirement on non-pooling carriers in order to promote the efficient use of numbering resources. In responding to the recent *FNPRM*, BellSouth, the Competitive Telecommunications Association ("CompTel"), Verizon Wireless ("Verizon"), and VoiceStream Wireless Corporation ("VoiceStream"), among others, all agreed that the various conservation measures adopted in the *NRO Order* would better meet the Commission's goal of "prevent[ing] carriers from 'stockpiling' or carrying excessive inventories of numbers" than would a utilization threshold.³¹ According to these parties, the newly adopted qualitative measures – including the enhanced enforcement authority granted to the NANPA, the mandatory reporting requirements, the streamlined reclamation process, and the upcoming audits – are more than adequate to manage a carrier's utilization.³²

³¹ CompTel Comments at 3 (filed May 19, 2000); *see, e.g.*, BellSouth Comments at 3 (filed May 19, 2000); Verizon Comments at 2 n.3 (filed May 19, 2000); VoiceStream Comments at 6-7 (filed May 19, 2000).

³² *See, e.g.*, BellSouth Comments at 3 (filed May 19, 2000); CompTel Comments at 3 (filed May 19, 2000); VoiceStream Comments at 6-7 (filed May 19, 2000).

In addition, the Commission has determined that various quantitatively based modifications should improve utilization. For example, the Commission has reduced the interval for calculating Months-To-Exhaust (“MTE”) from 12 to 6 months.³³ In addition, the Commission has tightened the interval for activating a number in the Location Exchange Routing Guide (“LERG”); the NANPA now has the authority to initiate reclamation action within 60 days of expiration of the activation deadline, instead of the previous 18-month timeframe included in the Central Office Code Assignment Guidelines.³⁴ The potential benefits derived from these shortened intervals have yet to be seen. These modifications should be given time to work before imposing unknown and questionable utilization threshold standards on non-pooling carriers.

Finally, a utilization threshold will not solve the problem of number exhaust. As BellSouth has previously stated³⁵ and the Commission has acknowledged, one of the principal drivers of number exhaust is the traditional “allocation of numbers in blocks of 10,000 [per rate center], irrespective of the carrier’s actual need for new numbers.”³⁶ The *NRO Order* seeks to address this problem by changing the way numbers are allocated to carriers.³⁷ This modification will promote more efficient number usage. Thus, the Commission should seriously consider

³³ To be codified at 47 C.F.R. § 52.15(g)(3)(i)(A).

³⁴ *NRO Order*, ¶ 241.

³⁵ BellSouth Comments at 15 (filed May 19, 2000).

³⁶ *NRO Order*, ¶ 4.

³⁷ BellSouth also encourages state commissions to do their part to address number exhaust. Specifically, BellSouth recommends that state regulators examine revenue-neutral rate center consolidation to determine whether it can be successfully used in combination with other conservation measures.

whether there is a need for the utilization threshold requirement. BellSouth believes that the answer is no.

A. The Use Of Months-To-Exhaust To Evaluate A Carrier's Need For Additional Numbering Resources Is More Effective Than The Use Of A Utilization Threshold.

As a number of parties have previously demonstrated, MTE is a more effective way to evaluate the demand for numbering resources than the use of utilization thresholds.³⁸ While utilization reporting may provide useful information for monitoring, auditing, and enforcement purposes, there are several reasons why the Commission should not tie a carrier's access to numbers to a fixed utilization percentage.

First, a utilization threshold requirement fails to take future telephone number demand into account because it is based solely on historical data. MTE, however, is a quantitative and reliable view of a carrier's future need for numbers. In a dynamic and competitive marketplace, historical data simply does not represent the true need for future numbering resources as effectively as MTE. Circumstances beyond the control of the carrier, such as increased population growth in a given geographic area or increased demand for a given service, can significantly affect a carrier's need for numbering resources. Imposing a utilization threshold under such circumstances could preclude carriers from obtaining legitimately needed numbering resources, as the following example demonstrates.

Assume that the Commission or a state regulator establishes 80 percent as the utilization threshold necessary to obtain a growth code. Before a carrier could apply for a growth code, it

³⁸ See, e.g., Nextel Comments at 3 (filed May 19, 2000); PCIA Comments at 3-4 (filed May 19, 2000); Sprint Comments at 2-3 (filed May 19, 2000); USTA Comments at 2 (filed May 19, 2000); Verizon Comments at 2 n.3 (filed May 19, 2000); VoiceStream Comments at 10-11 (filed May 19, 2000).

would have to satisfy the 80 percent threshold. In other words, 80 percent (or 8,000) of its telephone numbers in an NXX code would have to be assigned, thereby leaving 2,000 numbers. There is evidence in the record that at least 10 to 15 percent of any 10,000-block of numbers is unavailable for assignment because some of these are aging, administrative, reserved, or intermediate numbers.³⁹

Based on a conservative estimate, if we assume that 10 percent of the 10,000-block of numbers (1,000) is unassignable at any given time and 8,000 numbers would have to be assigned based on the threshold, the carrier would be left with 1,000 assignable numbers. These numbers would have to last from the day the carrier discovers that the demand is occurring, through the time required to prepare and submit the code request to the NANPA, and through the minimum 66-day NXX activation interval. In many instances, a supply of 1,000 numbers is inadequate to meet customer demand. As the Cellular Telecommunications Industry Association ("CTIA") explains, "[w]ireless carriers in some of the largest markets may assign over 1,000 numbers every week."⁴⁰ Such a numbering resource deficit puts carriers in the undesirable position of choosing between running out of numbers or expediting the activation of a growth code. The former solution results in customers being told that they must wait to get service because of the unavailability of numbers. The latter could result in blocked calls.⁴¹ These two results are equally unappealing and disruptive to customers.

³⁹ See AT&T Comments at 6 (filed May 19, 2000); SBC Comments at 8 (filed May 19, 2000).

⁴⁰ CTIA Comments at 8 (footnote omitted) (emphasis added) (filed May 19, 2000).

⁴¹ The first 21 days of the industry standard minimum 66-day NXX activation interval are for code assignment (14 days) and input of code data into the Local Exchange Routing Guide ("LERG") by the code assignee (7 days). Once the code assignment data has been placed in the LERG, all impacted carriers have 45 calendar days to make the necessary changes to their switches in order to recognize the new code. There may not be adequate time for carriers to

Another disadvantage of utilization thresholds is that they do not take into account the special needs of customers. Even the Commission has recognized that a “strict fill-rate regime may not accommodate customers’ requests for specific numbers or specific ranges of numbers.”⁴² For example, businesses commonly employ private branch exchanges (“PBXs”) that utilize specific digits such as “0” to access the PBX operator, “8” to access a WATS line, and “9” to access an outside line. These customers obtain numbers in blocks and require that the numbers be consecutive. A carrier could be well under the hypothetical 80 percent utilization threshold and still be unable to meet a customer’s demand for consecutive numbers.

In light of the foregoing, the Commission should seriously consider whether there is a need for a utilization threshold requirement. The record unambiguously shows that a number of circumstances exist in which a carrier’s utilization rate does not accurately reflect its need for numbering resources. Nearly every commenter (state regulators, consumer groups, CLECs, and ILECs) recognizes this disparity and emphasizes the need for a mechanism that will allow a non-pooling carrier with low utilization to still obtain growth codes if a legitimate business need exists.⁴³ A strict utilization requirement is not a panacea for addressing number exhaust and, in

modify their switches if the code must be activated on an expedited basis (in less than 45 days) thereby possibly leading to blocked calls to the new NXX code.

⁴² *Florida Public Service Commission Petition to Federal Communications Commission for Expedited Decision for Grant of Authority to Implement Number Conservation Measures*, CC Docket No. 96-98; NSD File No. L-99-33, *Order*, 14 FCC Rcd 17506, 17519, ¶ 30 (1999) (“*Florida Order*”).

⁴³ See, e.g., Ad Hoc Telecommunications Users Committee Comments at 5 (filed May 19, 2000); BellSouth Comments at 6-7 (filed May 19, 2000); CompTel Comments at 2-4 (filed May 19, 2000); CTIA Comments at 11-12 (filed May 19, 2000); GTE Comments at 8-9 (filed May 19, 2000); Maine Public Utilities Commission Comments at 3-4 (filed May 19, 2000); MediaOne Group Comments at 3, 5-6 (filed May 19, 2000); New Hampshire Public Utilities Commission Comments at 4 (filed May 19, 2000); New York State Department of Public Service Comments at 2 (filed May 19, 2000); PCIA Comments at 4-6 (filed May 19, 2000); Sprint Comments at 2-4 (filed May 19, 2000); USTA Comments at 3 (filed May 19, 2000); US WEST Comments at 5